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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009 301

13 GEORGE NAVARETTE, RN

31624 Boulder Vista Drive

14 Lake Elsinore, CA 92532

Registered Nurse license No. 571971

A C C U S A T I O N

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about September 15, 2000, the Board of Registered Nursing issued
23 Registered Nurse license No. 571971 to George Navarette, RN (Respondent). The Registered
24 Nurse license expired on May 31, 2008, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

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5. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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1 8. Section 490 of the Code states:

2 (a) In addition to any other action that a board is permitted to take against
3 a licensee, a board may suspend or revoke a license on the ground that the
4 licensee has been convicted of a crime, if the crime is substantially related to the
5 qualifications, functions, or duties of the business or profession for which the
6 license was issued.

7 (b) Notwithstanding any other provision of law, a board may exercise any
8 authority to discipline a licensee for conviction of a crime that is independent of
9 the authority granted under subdivision (a) only if the crime is substantially
10 related to the qualifications, functions, or duties of the business or profession for
11 which the licensee's license was issued.

12 (c) A conviction within the meaning of this section means a plea or verdict
13 of guilty or a conviction following a plea of nolo contendere. Any action that a
14 board is permitted to take following the establishment of a conviction may be
15 taken when the time for appeal has elapsed, or the judgment of conviction has
16 been affirmed on appeal, or when an order granting probation is made suspending
17 the imposition of sentence, irrespective of a subsequent order under the provisions
18 of Section 1203.4 of the Penal Code.

19 (d) The Legislature hereby finds and declares that the application of this
20 section has been made unclear by the holding in *Petropoulos v. Department of*
21 *Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has
22 placed a significant number of statutes and regulations in question, resulting in
23 potential harm to the consumers of California from licensees who have been
24 convicted of crimes. Therefore, the Legislature finds and declares that this section
25 establishes an independent basis for a board to impose discipline upon a licensee,
26 and that the amendments to this section made by Senate Bill 797 of the 2007 -08
27 Regular Session do not constitute a change to, but rather are declaratory of,
28 existing law.

1 9. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by
3 a board within the department pursuant to law to deny an application for a license
4 or to suspend or revoke a license or otherwise take disciplinary action against a
5 person who holds a license, upon the ground that the applicant or the licensee has
6 been convicted of a crime substantially related to the qualifications, functions,
7 and duties of the licensee in question, the record of conviction of the crime shall
8 be conclusive evidence of the fact that the conviction occurred, but only of that
9 fact, and the board may inquire into the circumstances surrounding the
10 commission of the crime in order to fix the degree of discipline or to determine if
11 the conviction is substantially related to the qualifications, functions, and duties
12 of the licensee in question. As used in this section, 'license' includes 'certificate,'
13 'permit,' 'authority,' and 'registration.'

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1 10. California Code of Regulations, title 16, section 1444, states:

2 A conviction or act shall be considered to be substantially related to the
3 qualifications, functions or duties of a registered nurse if to a substantial degree it
4 evidences the present or potential unfitness of a registered nurse to practice in a
5 manner consistent with the public health, safety, or welfare. Such convictions or
6 acts shall include but not be limited to the following:

7 (a) Assaultive or abusive conduct including, but not limited to,
8 those violations listed in subdivision (d) of Penal Code Section
9 11160.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(June 18, 2007 Criminal Conviction for DUI on January 12, 2007)**

12 11. Respondent is subject to disciplinary action under sections 2761 (a) and (f) and
13 2762 (b) and (c) within the meaning of Title 16, Section 1444 of the California Code of
14 Regulations in that Respondent was convicted of a crime that is substantially related to the
15 qualifications, functions, or duties of a licensee. The circumstances are as follows:

16 a. On or about June 18, 2007, in a criminal proceeding entitled *People v.*
17 *George Navarrete*, in San Bernardino Superior Court Case No. TWV700502, Respondent was
18 convicted on his plea of guilty for violating Vehicle Code section 23152(b), driving a vehicle
19 with 0.08 percent or more, by weight, of alcohol in his blood.

20 b. As a result of this conviction, on or about June 18, 2007, Respondent was
21 sentenced to three years probation, payment of \$1,930.00 in fines and fees, attend the Alcohol 1st
22 Offender (AB541) program, jail term of four days, and Department of Motor Vehicles to
23 determine license status. Respondent was further ordered not to drive a motor vehicle unless
24 properly licensed and insured according to California law; not to drive a motor vehicle with any
25 measurable amount of alcohol in his system; and to submit to a chemical test of blood or breath
26 upon request of an arresting officer.

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1 a. On or about October 17, 2007, in a criminal proceeding entitled *People v.*
2 *George Navarrete*, in Riverside County Superior Court, Case No. SWM067279, Respondent
3 was convicted on his plea of guilty for violating Penal Code section 273.6(a), (knowingly
4 violating a protective order).

5 b. As a result of this conviction, on or about October 17, 2007, Respondent
6 was sentenced to three years summary probation, 30 days in county jail, completion of 26 days
7 in the Sheriff's Labor Program, payment of \$577.00 in fines and fees, and to abide by all orders
8 issued by the Family Law or the Domestic Violence Court.

9 c. The facts and circumstances of the incident leading to the conviction are
10 as follows: On August 17, 2007, Respondent's former stepdaughter contacted the Riverside
11 County Sheriff and reported that her former stepfather was at her home. Respondent's former
12 stepdaughter was named as a protected party on a served domestic violence restraining order,
13 which named Respondent as the restrained person. The order prohibited Respondent from
14 coming within 100 yards of the residence, places of employment, vehicles or protected parties.
15 Respondent's former stepdaughter reported that she saw Respondent through a side window of
16 the home, and Respondent started pounding on the door when he realized she was home, causing
17 her to fear for her safety. Respondent reported to the arresting officer that he had gone to the
18 location to pick up his property and he was aware of the restraining order. Respondent was then
19 arrested for violation of the domestic violence restraining order.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(April 14, 2008 Felony Criminal Conviction for Stalking**
22 **(while there is a protective order in effect)**
23 **from August through October, 2007 and Violation of Probation)**

24 14. Respondent is subject to disciplinary action under sections 2761 (a) and (f) within
25 the meaning of Section 1444(a) of the California Code of Regulations in that Respondent was
26 convicted of a crime that is substantially related to the qualifications, functions, or duties of a
27 licensee. The circumstances are as follows:

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1 a. On or about April 14, 2008, in a criminal proceeding entitled *People v.*
2 *George Navarrete*, in Riverside County Superior Court, Case No. SWF024577, Respondent was
3 convicted on his plea of guilty for violating Penal Code section 464.9(b), (stalking when there is
4 a temporary restraining order, injunction, or any other court order in effect prohibiting the
5 behavior).

6 b. As a result of this conviction, on or about April 14, 2008, Respondent was
7 sentenced to 180 days in county jail, three years formal probation, payment of \$930.00 in fines
8 and fees, and to submit to search of person, automobile, residence, garage, storage areas,
9 personal or leased property with or without reasonable cause by any law enforcement or
10 probation officer.

11 c. The facts and circumstances of the incident leading to the conviction are
12 as follows:

13 i. On October 10, 2007, the Riverside County Sheriff's office
14 contacted Respondent's estranged wife in reference to a pattern of threatening behavior directed
15 against her by Respondent. Respondent's estranged wife reported that she had been married to
16 Respondent for ten years, and the relationship had been punctuated with violent episodes from
17 the Respondent. Respondent would fly into a rage on little or no provocation, breaking doors
18 and windows around the house by smashing into them with his head. Respondent's estranged
19 wife felt so threatened for her safety and that of her children that she obtained a restraining order.

20 ii. Despite the court order, Respondent's estranged wife felt
21 threatened in her home because the Respondent would frequently try to contact her there, come
22 to the residence with men she did not know, or drive by the residence menacingly. Respondent's
23 estranged wife moved to another residence unknown to Respondent. Respondent continued to
24 call and text his estranged wife on her cellular telephone. On one occasion in August 2007, he
25 threatened to kill her by pouring gasoline on her automobile and burning it with her inside. From
26 mid August 2007 through October 2007, Respondent made a concerted effort to track her
27 movements and locate her current place of residence. Respondent went to her brother's
28 residence and demanded to know where she was living, making threats to her brother in an

1 attempt to elicit the information. Later that same week, Respondent went to the residence of his
2 estranged wife's friends, again demanding to know her whereabouts. On October 3, 2007,
3 Respondent's estranged wife's former neighbors telephoned her and said that Respondent had
4 arrived at her former residence with a metal crowbar in his hand. He was seen peering through
5 the exterior windows, as if trying to catch a glimpse of anyone inside. The neighbors reported
6 that Respondent removed the family dog from the residence backyard and left with it. As a
7 result of these and other actions, Respondent was arrested and subsequently pled guilty to Felony
8 Stalking.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(September 17, 2008 Criminal Conviction for DUI on August 4, 2007)**

11 15. Respondent is subject to disciplinary action under sections 2761 (a) and (f) and
12 2762 (b) and (c) within the meaning of Title 16, Section 1444 of the California Code of
13 Regulations in that Respondent was convicted of a crime that is substantially related to the
14 qualifications, functions, or duties of a licensee. The circumstances are as follows:

15 a. On or about September 17, 2008, in a criminal proceeding entitled *People*
16 *v. George Navarrete*, in Orange County Superior Court, Central Justice Center Case
17 No. 07CM09731, Respondent was convicted on his plea of guilty for violating Vehicle Code
18 sections 23152(a), (driving under the influence of alcohol/drugs with two priors); 23152(b),
19 (driving a vehicle with 0.08 percent or more, by weight, of alcohol in his blood with two priors);
20 and 14601.2(a), (driving on a suspended/revoked license with prior).

21 b. As a result of this conviction, on or about September 17, 2008,
22 Respondent was sentenced to 389 days in Orange County Jail, five years informal probation,
23 payment of \$427.00 in fines and fees, to attend and complete 18 month Multiple Offender
24 Alcohol Program, to attend and complete Mother's Against Drunk Driving (MADD) Victim's
25 Impact Panel, not to drive any vehicle unless equipped with an Ignition Interlock Device except
26 the employer's vehicle if driven within the course and scope of employment, to install an
27 Ignition Interlock Device on any vehicle owned or operated, except employer's vehicle (to
28 remain on driving record for one year), to attend and complete two Alcoholics Anonymous (AA)

1 meetings per week, not to drive without a valid California Drivers License and valid insurance,
2 and to submit to a chemical test of blood or breath upon request of an arresting officer.

3 PRAYER


4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse license Number 571971, issued to
7 George Navarette, RN.

8 2. Ordering George Navarette, RN to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: 6/5/09

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16 
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant
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